

ANNUAL REPORT

FISCAL YEAR 2011-2012

CAREER SERVICE REVIEW OFFICE

STATE OF UTAH



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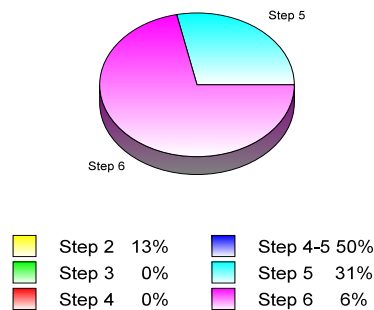
FISCAL YEAR 2011-2012

**LEVELS AT WHICH GRIEVANCE CASES
WERE RESOLVED DURING FISCAL YEAR 2011-2012
*OLD RULES*¹**

LEVELS OF RESOLUTION	GRIEVANCE CASES	NO. OF EMPLOYEES
Step 2 Immediate Supervisor	0	0
Step 3 Agency/Division Director	0	0
Step 4 Department Head	0	0
Mediation Forum (Between Steps 4 & 5)	0	0
Step 5 Evidentiary Hearing	2	3
*Step 6 Appellate Review by Board	5	6
TOTAL	7	9

***In addition to the five Step 6 Appellate Review by Board one other case went before the board but is not reflected in this chart. This additional Review by the Board is not reflected in this chart because the decision is being appealed before the Court of Appeals. This hearing however, is reflected in the material found at page 11.**

LEVELS OF RESOLUTION BY PERCENT



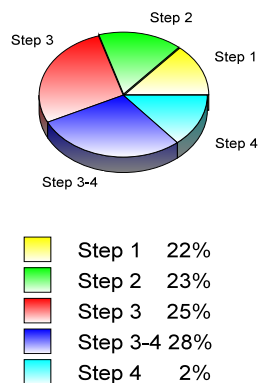
¹The Utah State Employees' Grievance and Appeal Procedures Act (the Act) and the CSRB's administrative rules were amended in 2011. Section **67-19a-101.5** (2011) of the Act provides that the amendments apply only to grievances submitted to an employee's supervisor on or after July 1, 2010. Because the above-referenced grievances were submitted **prior** to July 1, 2010, the statutes and administrative rules which were in effect **prior** to July 1, 2010 were used for resolution of such appeals.

**LEVELS AT WHICH GRIEVANCE CASES
WERE RESOLVED DURING FISCAL YEAR 2011-2012**
NEW RULES²

LEVELS OF RESOLUTION	GRIEVANCE CASES	NO. OF EMPLOYEES
Step 1 Immediate Supervisor	13	13
Step 2 Agency/Division Director	15	15
Step 3 Department Head	26	25
Mediation Forum (Between Steps 3 & 4)	27	27
*Step 4 Evidentiary Hearing	13	13
TOTAL	94	93

***In addition to the thirteen cases resolved at Step 4 during Fiscal Year 2011-2012, the CSRO held two additional Step 4 hearing that is not reflected in this chart. This additional hearing is not reflected in this chart because the decision was issued after June 30, 2012. This hearing however, is reflected in the material found at page 17.**

LEVELS OF RESOLUTION BY PERCENT



²The Utah State Employees' Grievance and Appeal Procedures Act (the Act) and the CSRB's administrative rules were amended in 2011. Section **67-19a-101.5** (2011) of the Act provides that the amendments apply only to grievances submitted to an employee's supervisor on or after July 1, 2010. Because the above-referenced grievances were submitted **after** July 1, 2010, the statutes and administrative rules which were in effect **after** July 1, 2010 were used for resolution of such appeals.

**NUMBER OF APPEALS FROM DISCIPLINARY
PENALTIES AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2011-2012
*OLD RULES***

LEVEL	DISCIPLINARY* PENALTIES RESOLVED
Step 2	0
Step 3	0
Step 4	0
Mediation Forum (Between Steps 4 & 5)	0
Step 5	1
Step 6	4
TOTAL:	5



***Note:** There are only four disciplinary actions designated by statute under the *old rules*: written reprimand, suspension, demotion and dismissal (*Utah Code*, Section 67-19a-302(1)). No other issues qualify as disciplinary actions.

**NUMBER OF APPEALS FROM DISCIPLINARY
PENALTIES AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2011-2012
*NEW RULES***

LEVEL	DISCIPLINARY* PENALTIES RESOLVED
Step 1	4
Step 2	7
Step 3	8
Mediation Forum (Between Steps 3 & 4)	24
**Step 4	12
TOTAL:	55



***Note:** Under the *new rules* there are only three disciplinary actions designated by statute: suspension, demotion and dismissal (*Utah Code*, Section 67-19a-302(1)). No other issues qualify as disciplinary actions.

****** In addition, to the Step 4 disciplinary case identified here, there were two additional Step 4 evidentiary hearing held during Fiscal Year 2011-2012, that involved disciplinary matters. This hearing was in 2011-2012 but the decision was issued after June 30, 2012.

**RESOLUTION ON APPEALS FROM DISCIPLINARY ACTIONS
DURING FISCAL YEAR 2011-2012
OLD RULES**

LEVEL	ACTION	NUMBER	DETERMINATION					
			AFFIRMED	MODIFIED	RESCINDED			
Step 2	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 3	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 4	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Mediation/Jurisdiction Forum	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 5	Reprimand	0	0	0	0			
	Suspension	1	1	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 6	Reprimand	0	0	0	0			
	Suspension	1	1	0	0			
	Demotion	2	1	1	0			
	Dismissal	1	1	0	0			
TOTAL DISCIPLINARY APPEALS:		4	=	3	+	1	+	0

**RESOLUTION ON APPEALS FROM DISCIPLINARY ACTIONS
DURING FISCAL YEAR 2011-2012
NEW RULES**

LEVEL	ACTION	NUMBER	DETERMINATION		
			AFFIRMED	MODIFIED	RESCINDED
Step 1	Suspension	4	4	0	0
	Demotion	0	0	0	0
	Dismissal	0	0	0	0
Step 2	Suspension	7	5	1	1
	Demotion	0	0	0	0
	Dismissal	0	0	0	0
Step 3	Suspension	4	4	0	0
	Demotion	1	1	0	0
	Dismissal	3	3	0	0
Mediation/Jurisdiction Forum	Suspension	5	4	1	0
	Demotion	1	1	0	0
	Dismissal	18	17	1	0
Step 4	Suspension	1	0	1	0
	Demotion	0	0	0	0
	Dismissal	11	8	0	3
TOTAL DISCIPLINARY APPEALS:		55 =	47	+	4
				+	4

**FREQUENCY DISTRIBUTION OF GRIEVANCE ISSUES
DURING FISCAL YEAR 2011-2012
OLD RULES**

ISSUES (OLD RULES)	OCCURRENCES
Dismissal.	1
Demotion.	2
Suspension.	2
Salary.	1
<u>TOTAL ISSUES GRIEVED:.</u>	6

**FREQUENCY DISTRIBUTION OF GRIEVANCE ISSUES
DURING FISCAL YEAR 2011-2012
NEW RULES**

ISSUES (NEW RULES)	OCCURRENCES
Demotion.	2
Dismissal.	32
Employment Practices.	1
Harassment.. . . .	1
Letter of Reprimand.. . . .	1
Pay.	15
Performance.. . . .	6
Retaliation.	2
RIF.. . . .	3
Suspension.	21
Transfer.	1
Work Conditions.	1
Written Reprimand.. . . .	2

Promotion.. . . .	2
Schedule.. . . .	1
Written Warning.	5
TOTAL ISSUES GRIEVED:.	96

Note: There were 96 grievance cases resolved; however, one case had multiple issues grieved. Thus the overall number of grievance issues resolved (96) exceeds the total number of employees' cases (95) that were resolved.

**GRIEVANCE CASES IDENTIFIED BY DEPARTMENTS
AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2011-2012
OLD RULES**

<u>CORRECTIONS</u>	<u>HUMAN SERVICES</u>	<u>COMMISSION ON CRIMINAL AND JUVENILE JUSTICE</u>
Step-No..... 2 - 0	Step-No..... 2 - 0	Step-No..... 2 - 0
..... 3 - 0 3 - 0 3 - 0
..... 4 - 0 4 - 0 4 - 0
..... 4/5 - 0 4/5 - 0 4/5 - 0
..... 5 - 0 5 - 0 5 - 1
..... 6 - 2 6 - 1 6 - 1
<u>WORKFORCE SERVICES</u>		
Step-No..... 2 - 0		
..... 3 - 0		
..... 4 - 0		
..... 4/5 - 0		
..... 5 - 0		
..... 6 - 1		

**GRIEVANCE CASES IDENTIFIED BY DEPARTMENTS
AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2011-2012
NEW RULES**

<u>ALCOHOL & BEVERAGE CONTROL</u>	<u>COMMERCE</u>	<u>COMMISSION ON CRIMINAL AND JUVENILE JUSTICE</u>
Step-No..... 1 - 0	Step-No..... 1 - 0	Step-No..... 1 - 0
..... 2 - 1 2 - 1 2 - 0
..... 3 - 1 3 - 0 3 - 0
..... 3/4 - 0 3/4 - 1 3/4 - 1
..... 4 - 1 4 - 0 4 - 0
<u>COMMUNITY & CULTURE</u>	<u>CORRECTIONS</u>	<u>HEALTH</u>
Step-No..... 1 - 0	Step-No..... 1 - 2	Step-No..... 1 - 2
..... 2 - 1 2 - 3 2 - 0
..... 3 - 1 3 - 0 3 - 1
..... 3/4 - 2 3/4 - 8 3/4 - 0
..... 4 - 0 4 - 3 4 - 0

HUMAN SERVICES

Step-No..... 1 - 5
..... 2 - 7
..... 3 - 20
..... 3/4 - 9
..... 4 - 2

INSURANCE

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 1
..... 3/4 - 0
..... 4 - 0

LABOR COMMISSION

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 1
..... 3/4 - 0
..... 4 - 0

NATIONAL GUARD

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 1
..... 3/4 - 1
..... 4 - 0

NATURAL RESOURCES

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 0
..... 3/4 - 0
..... 4 - 1

NON-STATE EMPLOYEE

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 0
..... 3/4 - 1
..... 4 - 0

OFFICE OF REHABILITATION

Step-No..... 1 - 0
..... 2 - 0
..... 3 - 0
..... 3/4 - 1
..... 4 - 1

PUBLIC SAFETY

Step-No..... 1 - 2
..... 2 - 0
..... 3 - 0
..... 3/4 - 2
..... 4 - 3

TAX COMMISSION

Step-No..... 1 - 2
..... 2 - 1
..... 3 - 1
..... 3/4 - 1
..... 4 - 0

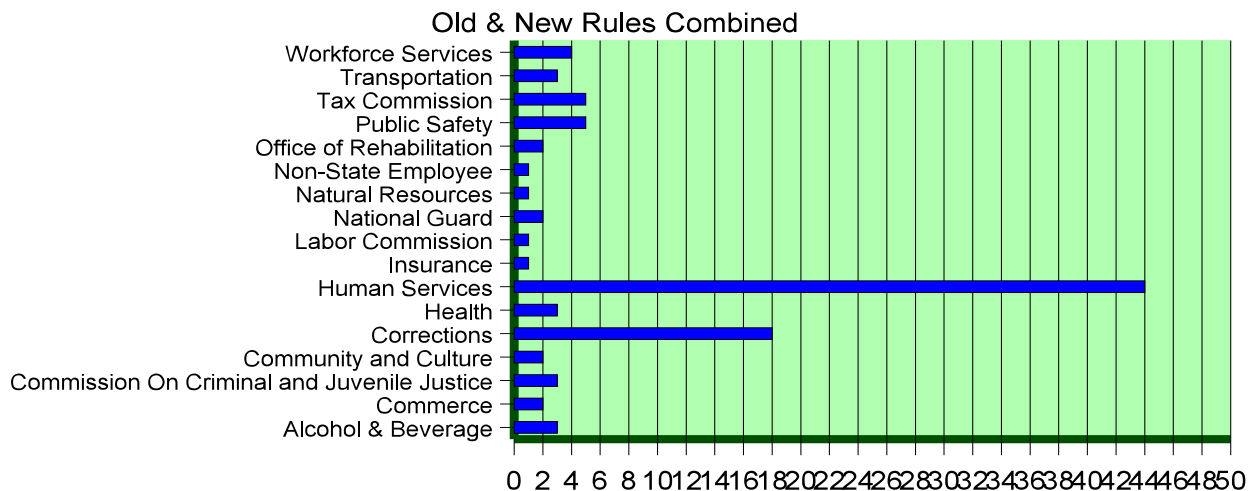
TRANSPORTATION

Step-No..... 1 - 1
..... 2 - 1
..... 3 - 0
..... 3/4 - 0
..... 4 - 1

WORKFORCE SERVICES

Step-No..... 1 - 1
..... 2 - 1
..... 3 - 0
..... 3/4 - 0
..... 4 - 1

GRIEVANCES BY DEPARTMENT



**GRIEVANCE CASES PER LEVEL RESOLVED
DURING FISCAL YEAR 2011-2012
OLD RULES**

STEP 5				
Evidentiary Hearing	Cases: 1			Employees: 2

<u>Employee</u>	<u>Issue</u>	<u>Department</u>	<u>Decision Issued</u>	<u>Status</u>
Valdez, Nancy and Worthen, Carrie	Pay Equity	Human Services	01/06/2012	Upheld

STEP 6				
Appellate Review/Board	Cases: 3			Employees: 1

<u>Employee</u>	<u>Issue</u>	<u>Department</u>	<u>Decision Issued</u>	<u>Status</u>
Anderson, James	Suspension	Corrections	06/06/2011	Upheld
Benns, Elizabeth	Dismissal	Commission on Criminal and Juvenile Justice	10/06/2011	Overturned
Brienholt, Mark	Demotion	Corrections	08/22/2011	Upheld

Note: In addition to the three cases resolved at Step 6 during Fiscal Year 2011-2012, the CSRB held an additional Step 6 Board Reviews in the following case. This case was reviewed at Step 6, but not resolved during Fiscal Year 2011-2012, because the final decision was issued after June 30, 2011 or are still on appeal at level 6 or the Court of Appeals.

<u>Employee</u>	<u>Issue</u>	<u>Department</u>	<u>Decision Issued</u>	<u>Status</u>
Benson, Ronald	Dismissal	Corrections	03/22/2012	Overturned

**JUDICIAL REVIEW BY THE COURTS
CASES DECIDED DURING FISCAL YEAR 2011-2012
OLD RULES**

DESIGNATION IN THE COURT OF APPEALS:

1. *Elizabeth Benns v. Commission on Criminal and Juvenile Justice*

Step 5 Ruling: Grievant's suspension was upheld.

Step 6 Ruling: Grievant failed to make arrangements with the court reporting firm sufficient that transcription of her record began within the time limits required in the numerous prior orders. *Utah Admin. Code* R137-1-13 directs that an employee who fails or neglects to process their grievance within established time limits forfeits their rights granted under the State's Grievance and Appeals Procedures. Based upon these facts, Grievant's appeal was dismissed with prejudice. This dismissal was made pursuant to Utah Code Ann. 67-19a-401 and CSRB rules R137-1-13(4) – (5) and R137-1-22. Grievant appealed to Court of Appeals.

Court of Appeals: On October 27, 2011, the Court of Appeals issued their decision upholding the Boards decision.

2. *Ronald Benson v. Utah Department of Corrections*

Step 5 Ruling: Grievant's Dismissal was upheld.

Step 6 Ruling: The Board reinstated as an Investigator IV, POST, as of May 30, 2008, then suspended for thirty days without pay and a demotion in the form of a reduction in salary to the minimum hourly rate for the job of Investigator IV, POST.

Court of Appeals: This matter was still before the Court of Appeals at the end of FY 2012.

3. *Lorin Blauer v. Utah Department of Workforce Services.*

Step 5 Ruling: Grievant's dismissal was upheld.

Step 6 Ruling: On December 20, 2010, the CSRB issued its decision after thoroughly reviewing the evidentiary record and carefully applying the relevant policy and rules at issue. The Board sustained the hearing officer's decision and denied Mr. Blauer's appeal to this Board. The Board found the hearing officer's decision to be reasonable and rational and supported by substantial evidence. The Board further found that the hearing officer correctly applied all relevant policies and rules in rendering his decision. Based upon the evidence presented at the Step 5 evidentiary hearing, the Board found that the Department did not violate personnel rules regarding the Department's failure to define job parameters, unlawful harassment, or discipline without due process and upheld the hearing officer's decision denying Appellant's claims in their entirety.

Court of Appeals: On April 19, 2012, the Court of Appeals issued its opinion upholding the Board's decision denying Blauer's claims against DWS.

**GRIEVANCE CASES PER LEVEL RESOLVED
DURING FISCAL YEAR 2011-2012
*New Rules***

STEP 1		
Immediate Supervisor	Cases: 13	Employees: 13

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
B.C.	Pay	Human Services
B.M.	Performance	Human Services
C.S.	Performance	Health
E.P.	Promotion	Health
J.D.	Pay	Tax Commission
J.S.	Suspension	Transportation
J.S.	Work Schedule	Corrections
L.E.	Suspension	Human Services
L.W.	Suspension	Human Services
N.S.	Written Warning	Human Services
P.D.	Letter of Reprimand	Corrections
W.S.	Suspension	Human Services
Y.T	Pay	Human Services

STEP 2		
Division/Agency Director	Cases: 15	Employees: 15

B.L.	Transfer	Corrections
B. D.	Suspension	Human Services
B.B.	Suspension	Corrections
C.P.	Suspension	Human Services
E.J.	Pay	Tax Commission
G.D.	Suspension	Human Services
H.B.	Performance	Human Services

J.D.	Written Reprimand	Human Services
K.C.	Suspension	Workforce Services
M.M.	Suspension	Corrections
M.P.	Retaliation	Alcohol and Beverage Control
N.J.	Working Condition	Transportation
P.W.	Suspension	Human Services
S.T.	Performance	Human Services
W.B.	Retaliation	Commerce

Step 3

Department Head

Cases: 26

Employees: 25

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.B.	Written Reprimand	Human Services
A.D.	Dismissal	Human Services
B.A.	Employment Practices	National Guard
B.M.	Suspension	Human Services
B.D.	Written Warning	Health
B.T.	Pay	Human Services
B.T.	Suspension	Tax Commission
D.R.	Dismissal	Human Services
D.T.	Pay	Human Services
E.D.	Performance	Alcohol and Beverage Control
F.D.	Pay	Human Services
F.D.	Promotion	Labor Commission
F.V.	Suspension	Human Services
F.V.	Dismissal	Human Services
H.J.	Written Warning	Human Services
H.K.	Pay	Human Services

H.M.	Pay	Human Services
H.B.	Pay	Human Services
J.C.	Pay	Health
P.M.	Pay	Human Services
R.J.	Pay	Human Services
R.M.	Written Warning	Human Services
S.S.	Pay	Human Services
S.C.	Performance	Insurance
W.T.	Demotion	Human Services
W.J.	Suspension	Human Services

MEDIATION/JURISDICTIONAL FORUM

Between Steps 3 and 4

Cases: 26

Employees: 27

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
B.J.	Dismissal	Corrections
C.B..	Dismissal	Corrections
C.A.	Dismissal	Commission on Criminal and Juvenile Justice
D.K.	Dismissal	Human Services
D.G.	Dismissal	Human Services
E.T.	Dismissal	Corrections
G.V.	Suspension	Office of Rehabilitation
G.G.	Dismissal	Human Services
G.A.	Dismissal	Non-State Employee
G.G.	Dismissal	Corrections
H.R.	Demotion	Corrections
J.J.	Dismissal	Public Safety
J.K.	RIF	Community and Culture
L.C.	Dismissal	Human Services
L.P.	Dismissal	Corrections
L.G.	Dismissal	National Guard

M.G.	Suspension	Public Safety
M.M.	Dismissal	Human Services
P.M.	Dismissal	Corrections
P.M.	Letter of Reprimand	Corrections
R.T.	Suspension	Commerce
R.R.	RIF	Community and Culture
R.C.	Dismissal	Tax Commission
S.P.	Dismissal	Human Services
S.S.	Suspension	Human Services
T.H.	Dismissal	Human Services
W.N.	Suspension	Human Services

STEP 4

Evidentiary Hearing

Cases: 13

Employees: 13

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.B.	RIF	Natural Resources
C.D.	Dismissal	Workforce Services
D.A.	Dismissal	Public Safety
F.A.	Dismissal	Human Services
G.D.	Dismissal	Transportation
H.D.	Suspension	Public Safety
H.T.	Dismissal	Corrections
H.M.	Dismissal	Human Services
M.R.	Dismissal	Alcohol & Beverage Control
O.J.	Dismissal	Corrections
R.J.	Dismissal	Corrections
S.R.	Dismissal	Office of Rehabilitation
W.K.	Suspension	Public Safety

**JURISDICTIONAL HEARINGS AND
ADMINISTRATIVE REVIEWS OF THE FILE
CONDUCTED DURING FISCAL YEAR 2011-2012
NEW RULE**

JURISDICTIONAL HEARINGS:

A jurisdictional hearing is a formal adjudication conducted according to the Utah Administrative Procedures Act. These hearings are held at the request of employees, agency management, or at the initiative of the CSRB administrator. Jurisdictional hearings address the four issues of: timeliness, direct harm, standing and eligibility to advance issues and remedies to the evidentiary/step 5 level, according to *Utah Code*, §67-19a-403(2)(b)(I).

EMPLOYEE/CASE NO.	ISSUE	DEPARTMENT
Hansen, Rex	Demotion	Corrections
Jones, Kevin	RIF	Community and Culture

Administrative Reviews of the File (*New Rule*):

An administrative review of the file is an informal adjudication under the Utah Administrative Procedures Act. The contents of the CSRB's case files are reviewed and a written legal decision is issued. The decision is based upon a consideration of all documents contained in the CSRB's file. These reviews are conducted according to *Utah Code*, §67-19a-403(2)(b)(ii).

EMPLOYEE/DATE ISSUED	ISSUE	DEPARTMENT/CASE NUMBER
Brook, Jodie	Dismissal	J.H. 196
Saluni, Pofele	Dismissal	J.H. 197
Puckett, Marc	Letter of Reprimand	J.H. 198
Gaudette, Gary	Dismissal	J.H. 199

**JUDICIAL REVIEW BY THE COURTS
CASES DECIDED DURING FISCAL YEAR 2011-2012
NEW RULES**

DESIGNATION IN THE COURT OF APPEALS:

None.

DESIGNATION IN THE THIRD DISTRICT COURT:

None.

JUDICIAL REVIEW BY THE COURTS
CASES PENDING DURING FISCAL YEAR 2011-2012
NEW RULES

1. *Dori Wintle-Butts v. Department of Technology*

Synopsis:

Jurisdiction denied. Department's action constituted a reassignment not a demotion. At the end of FY 2011-2012 this matter was still before the Utah Court of Appeals for decision.

STATISTICAL SUMMARY OF ACTIVITIES
FOR FISCAL YEAR 2011-2012

GENERAL:

Grievance cases resolved in the CSRO forum:	99
Career service employees participating in the grievance process:	101
Evidentiary hearings conducted:	15
Evidentiary hearings decisions issued:	13
Appellate/step 6 hearings conducted:	2
Appellate/step6 decisions issued:	2
Jurisdictional hearings conducted/decisions issued:	2
Administrative reviews of the file conducted/issued.	4
Cases resolved, mediated or otherwise settled following an appeal to Step 5 & 4:	2

CSRO ADMINISTRATOR:

Prehearing status conference summaries/orders issued:	29
Other orders issued:	12
Conciliation conferences held:	

THE COURTS:

CSRB decisions issued by the Utah Court of Appeals:	2
CSRB cases currently pending before the Utah Court of Appeals:	1
CSRB decisions issued by Utah District Courts.	0
CSRB cases currently pending before the Utah District Courts.	1

**ANNUAL GRIEVANCE CASES COMPARED
FOR TEN YEAR PERIOD
FISCAL YEARS 2002-2003 THROUGH 2011-2012**

FISCAL YEAR	TOTAL GRIEVANCES	JURISDICTIONAL DECISIONS	STEP 5&4 HEARINGS	STEP 6 HEARINGS
02-03	91	9	15	6
03-04	129	12	9	7
04-05	122	15	7	7
05-06	83	6	10	2
06-07	70	9	5	6
07-08	66	14	11	3
08-09	57	6	4	4
09-10	80	8	6	3
10-11	76	5	11	4
11-12	101	4	16	2

